Wing E1262.

A BILL

For the Eſtabliſhment of a COURT-MERCHANT IN LONDON.

WHereas all Merchants, trading into, or from this Commonwealth, exerciſing the Myſteries of Exchanges and Rechanges of Monies with foreign parts; Reduction of their Weights and Meaſures unto ſuch Standards as are eſtabliſhed and allowed here, are many times perplexed in ſoliciting and following their cauſes in the uſuall Courts of the Common Laws of this Land, which are not acquainted with the Affairs of Merchants. And to the intent that ſome more ſpeedy, cheap and ſatisfactory way may be provided for hearing and determining of all ſuch matters, as relate to Merchants or Tradeſmen about their Traffique or Perſonall contracts for the Maintenance and Advancement of Navigation and Trade. The ſaid Merchants deſire that it may be Enacted and Ordained by this preſent Parliament, and Authority of the ſame. That *A. B. C. D. E. F. G. H. I. K. L. M. N. O. P. Q. R. S T. V. W. X. B. C. D. E. F. G. H. I.* and *K. L.* of *London* Eſquires, may be nominated and appointed the firſt ſeventeen Commiſſioners for the Court-Merchant, and may be confirmed Commiſſioners untill they ſhall be removed by Death, depart the lines of Communication to inhabit, or be otherwaies diſplaced by the Parliament, or Council of State in the Intervals of Parliament, for ſome neglect, or other offence by them committed, and that then forthwith upon any ſuch removall as aforeſaid, the more part of the ſaid Commiſſioners may with the Conſent and Advice of the Preſident and Conſuls for the time being, iſſue forth publique notice or Summons for the full and orderly aſſembling of Merchants, as well Strangers as others, Mariners, & Shop-keepers, who being aſſembled, ſhall proceed by the more part of voices, to Elect from among themſelves one or more diſcreet and fit perſon or perſons, to be Commiſſioner or Commiſſioners in the ſtead and place of ſuch Merchants, Mariners, Shop-keepers, as is or ſhall be removed as aforeſaid; which ſaid Commiſſioners, or any Nine, or more of them, ſhall have Power to appoint a Common Seal for the Court-Merchant,

ſuch as ſhall be approved by Parliament, and to make choice of any publique place or places within that City, as unto them, with Advise and Conſent of the Lord Mayor, Aldermen, and Common Council thereof, ſhall ſeem good and convenient, as well for the meeting and ſitting of the Court-Merchant from time to time, as hereafter is provided, ſo alſo for the ſafe laying up, and keeping of all Records therein to be made and kept. And that it may be further Enacted, that A. B. Eſquire ſhall be the firſt Preſident of that Court, and that *B. C.* and *C. D.* ſhall be the Two firſt Conſuls to the ſaid Preſident, who having duly ſworn, and taken the Oath hereafter expreſſed before the Commiſſioners for the Court-Merchant, or any Nine, or more of them, which Oath the ſaid Commiſſioners may be enabled to Adminiſter, ſhall have power forthwith to ſit as a lawfull Court of Iudicature for hearing Tryall, Adjudging and Determining of all ſuch Cauſes and Complaints as relate to any perſonal Conrracts, concerning Navigation and Trade, and ſhall be brought before them, after the time of paſſing this preſent Act or Statute, untill the firſt day of next enſuing. And for the more orderly and ſucceſſive Election of either, the ſame Preſident and Conſuls, or ſuch others as ſhall be thought fit to execute the place of Iudicature within that Court for time to come; That it be further Enacted, that upon ſome one of the Three laſt daies of the moneth aforeſaid: and ſo conſequently upon one of the Three laſt daies of each moneth in the year and yeares ſucceſſively, the Commiſſioners aforenamed, and ſuch others as ſhall be from time to time hereafter choſen, as is before ordained, or any Nine or more of them ſhall proceed to Elect among themſelves, and ſwear one able and fit perſon to be Preſident, and Two others for his Conſuls for the next moneth and monethly after reſpectively for ever. And that it may be further Enacted, that the Oath which ſhall be adminiſtred to the Preſident and Conſuls herein named, and to all ſuch others as ſhall be monethly Elected, according to the Tenor of this Act, ſhall be in theſe words.

I, A. B. do ſwear that I will according to my beſt skill and knowledge, faithfully diſcharge the Truſt committed unto me, as of the Court-Merchant for the moneth enſuing, and that I will not for fear, favour or affection, Reward or Gift, or Hopes of Reward or Gift, prefer the perſon, or delay the Cauſe of any man, But give impartiall Iudgement according to Evidence; Even ſo, as I ſhall at any time look to receive help from God.

And the ſaid Preſident and Conſuls herein named, and all ſuch other Preſident and Conſuls as ſhall be Elected and ſworn, as is before expreſſed, ſhall and may forthwith execute the place and truſt of Iudges in that Court, and may proceed to the receiving, hearing and determining in a brief and ſummary way, either with or without Council, as the Court ſhall think fit, All Actions, Suits, Complaints, and Grievances which

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ſhall be brought before them, touching matters of Merchandiſing, Buying or Selling, as alſo upon any Bond, Bill, Specialty, Receipt, Accounts, Partnerſhip, Contracts, Bargains, Bills of Exchange, Subſcription, Aſſignations, Pawns or Pledges, Policies of Aſſurance, Treſpaſſes, or any other perſonall Contracts between all manner of perſons, as well Strangers as others, concerning Merchandiſe or Traffique, Merchants, Factours, Maſters of ſhips, Mariners, Tradeſmen, or Artificers, lodging or inhabiting the Cities of *London* and *Weſtminſter*, late lines of Communication, and Bills of Mortality.

And that it may be further Enacted, that all Debts which ſhall be acknowledged and recognized before the Preſident and Conſuls of the Court Merchant from time to time, and atteſted under the publique Seal of the ſaid Court ſhall be as good and effectuall in the Law, for recovery of the ſame, to all intents and purpoſes, as any Debts recovered by virtue of the Statute of *Acton Burnel*, in the thirteenth year of K. *Edward* the Firſt.

And that the Preſident and Conſuls herein named, and ſuch other as ſhall from time to time be Elected, as is before Ordained, ſhall have as full Power to cauſe ſuch Debtors goods to be ſold towards payment of his Debt, acknowledged as aforeſaid, and whereof failer hath been made, as any Mayor of the Staple, by that Statute of *Acton Burnell*, or of the 23. of King *Henry* the 8. have had, or now lawfully have in any caſe whatſoever.

And whereas divers evil-minded people being natives of this Commonwealth, and uſing the Trade of Merchandiſe and Shop-keepers, that live by Buying, Selling and Bartering, have deceitfully taken up ſeveral ſummes of Money and goods from their Creditors upon dayes of payment to come, and have before ſatisfaction Compounded or ſought to Compound with their Creditors for leſſe then was agreed upon, to their very great loſſe. That it be hereby further Enacted, That all ſuch perſons being natives of this Commonwealth, uſing the Trade of Merchandiſe as aforeſaid, who ſhall borrow, or take up on Credit either Money or goods, and ſhall propoſe or offer leſſe ſatisfaction then was or ſhall be agreed unto by the Creditor at the time of taking up the ſaid Money or goods as aforeſaid, ſhall be deemed and judged Bankrupt as fully as any that hath been deſcribed, deemed or adjudged by the Statute of the 13. of Queen *Elizabeth*, and 1. or 21. of King *Iames*. And that the Court-Merchant upon Complaint and due proof thereof made, may proceed to adjudication of them as Bankrupts, as well upon this Article as upon any former Statute deſcribing who ſhall be ſo deemed and taken, and to certifie the ſame unto the Lords Commiſſioners for the great Seal, That Commiſsions may be forthwith directed againſt the ſaid Bankrupts, their Lands, Goods and Chattels towards payment of thoſe Debts as by the ſaid Lawes of the Land are in that caſe provided.

Provided alwayes that all matters of Fact which ſhall be given in Evidence againſt any Merchant or other perſon uſing the Trade of Buying & Selling, be done within this Commonwealth, and proved before the Court-

Merchant within six moneths after the same was committed, or else not to be allowed of; as to convict him for Bankrupt, any Law or Statute heretofore made to the contrary notwithstanding.

And whereas by another Statute of the One and twentieth of King *Iames* all Actions of Trespasse, Detinue, Surtrover, Replevin. for taking away of Goods and Chattels, and all actions of Account, except Merchants, are to be Commenced within six years next after the cause, and not after; and that divers persons out of a Purpose to avoid their Creditors have absented themselves in some Garrison of the Enemy or elsewhere, during the time of the Troubles, and have afterwards pleaded the foresaid Statute of Limitation in Bar of such actions as have been Commenced, whereby the Creditor hath been left without Remedie. That it may be further Enacted that all such Debts, as have been Contracted between the First day of and the first of be and may be hereby excepted of that Limitation, and shall upon Evidence and due proof made be recoverable in the Court-Merchant, or in any other Court of Record within this Commonwealth, until the First day of which shall be in the year of our Lord . and not after; and that the Plantiff or Plantiffs suing for the same shall produce this present Act in Evidence against any Defendant pleading that Statute. Provided alway this Act be not extended to any Debt contracted without the Compasse of Ten years herein provided for, nor for any Action Commenced after the said First day of

And whereas divers persons have Money due unto them by Bond, Bill or other Specialty Writing or Contract, and are or may be willing to Assign, transfer and set over the said Debts unto such Creditors to whom they are or may be indebted, or to such persons as are or may be willing to accept and receive the said Debts for consideration of Conveniencie or other accommodation for the more furtherance of Commerce. That it be therefore further Enacted by Authority aforesaid that it shall and may be lawfull for all and every Merchant and Merchants, Shop-keepers, Artificers and others who have Money or Debts due unto them as aforesaid, to transfer, assigne and set over all and every such Debts or summes of Money unto any manner of person or persons whatsoever, which said Assignment being by the Assignor entred and Registred by the Court-Merchant by the Register there appointed, and the said Debt, Bond, Bill or Subscription being certified under the Registers hand, together with the day of the moneth and year of God when such Assignation was Registred, that then the Assignee may have power to implead the Debtor either in the Court-Merchant or any other Court or Courts whatsoever, and Recover all such Debt or Debts as are or do remain due thereon, and that in his own name as fully as if the said Bond or Writing were Originally made and delivered to his own use; Any Usage, Law, Statute, Custome heretofore had or made in any wise to the contrary notwithstanding. And-

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whereas manifold practices of deceit are daily used in Sophisticating, Corrupting and falsifying several Merchandises and Commodities whether by Allay, Commixture and Imbasement, false Dying, or otherwise to the great prejudice of the Buyer and People of this Land, and discredit of those Merchandises. For remedie and Punishment of such Abuses, They desire it may be further Enacted and Ordained by the Authority aforasaid. That the said President and Consuls of the Court-Merchant in the Citie of *London* shall and may upon information to them given, or Complaint hereof made in writing against any persons whatsoever, appoint two or more, skilfull and experienced persons to be Visiters or Searchers of such goods, and to assign them convenient Allowance of Salarie to be paid them in hand before by the Informant, and shall have power to enter into any Ware-house, Shop, Cellar or other place, for the search and viewing of the same; and after view thereof shall report upon Oath unto the said Court of the Quality of the same, and how far falsifyed: And that the President and Consuls may be hereby enabled upon their report to proceed either to the Confiscation of the said goods, fine or imprisonment of the Offendors as to Justice shall appertain. The one Moyetie of such fine shall be by the said President and Consuls emploied to the use of the Poor within the Citie of *London*; and the other Moyetie to the Discoverer.

And that it be further Enacted, That for the more speedy and orderly proceeding in that Court, every Plaintiff, Petitioner or Informer, shall briefly exhibit the ground of his Action or Complaint by Declaration, Petition or Articles, which he shall deliver in upon his Oath, and subscribe his name thereunto; and shall give notice unto the Court, of the place where as well himself as the Adverse party do reside.

And that the Court-Merchant may be hereby Authorized upon such Complaint, to direct their Processe together with a Brief of the Declaration, Petition or Article to be left with or for the Defendant or Defendants, at the usual place, where he or they did last reside; Requiring his or their appearance to that Plaint within 48. Hours, and to give security (if the Plaintiff shall desire it) to abide the Judgement of the Court. And if the Defendant shall not appear according to such processe, or shall refuse or delay to give sufficient Bail to the Action when it shall be demanded. That then the Court may have power by their own Marshal or any other Serjeant at the Mace within the City of *London* by them authorized to Arrest and keep in Prison the Bodie or Bodies of the Defendant or Defendants, until sufficient Bail be given to answer the suit of the Complainant. Provided alwaies that if the Defendant shall not appear upon Processe or Summons left at the usual place of his Abode as aforesaid, nor be found to be attached by Arrest within the Lines of Communication, that then upon Oath made before that Court of such notice left, and of his or their being at the time of such Summons within the Verge and Jurisdiction of the Court. The President and Consuls shall upon request of the Plaintiff,

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Iſſue forth their Publick Citation in writing, which they ſhall cauſe to be fixed for three ſeveral dayes together in ſome eminent place upon the *Royal Exchange* at the time when Merchants do uſually aſſemble, requiring him or them, the ſaid Defendant or Defendants to come in and give ſecurity or Bail to anſwer ſuch Plea within Three dayes after ſuch publick Citation as aforeſaid. And that if after all this the ſaid Deſendant or Defendants ſhall refuſe or neglect to appear, That then the ſaid Court-Merchant ſhall and may proceed to Judgement and Execution upon the Demands of the Plaintiff, Petitioner or Informer according to Evidence as fully as if appearance had been made, Pleadings and Iſſues joyned.

And that it may be further Enacted, that all pleadings or anſwers of the Defendant in that Court may be upon Oath in writing under his or their hand; And that the Preſident and Conſuls ſhall not proceed by Inquiry into any the Cauſes brought before them, without both adverſe parties be firſt called thereunto, unleſſe the Deſendant ſhall make default of appearance upon Summons and Citation as is before expreſſed; And all perſons who are to make proof in that Court, may uſe any lawfull Evidence for ſatisfaction of the Conſciences of the Preſident and Conſuls, and the better guiding of them unto Judgement, whether it be by writing Publick or Private Collection of Letters, and by Oath in writing or otherwiſe, according to the Cuſtome of Merchants.

Provided alway, That if any perſon whatſoever ſhall Averre upon Oath any Falſhood or untruth, and be diſcovered or Convicted of the ſame, That then the Court-Merchant ſhall have power to impoſe a Fine upon the Party ſo offending, not exceeding the ſumme of Twenty pounds, and ſhall further leave him or them to be puniſhed as perjured perſons according to the Law in that caſe and behalf provided.

And that it be further Enacted, That the Court-Merchant ſhall have Power to warn or Summon, in any caſe if need require, ſo many Merchants, Mariners, Shop-keepers or Artificers by adjournment, to aſſiſt them with their Judgements or opinion in any matter of difficulty as they ſee fit, not exceeding the Number of 20. And ſhall have like power to ſummon or warn any Witneſſe within Miles of *London*, to appear by adjournment, and give in their knowledge upon Oath, as is before directed. And if any perſon or perſons ſummoned as aforeſaid for advice, and be inhabiting or lodging within the Lines of Communication, or as Witneſſe within Miles, ſhall diſobey the ſaid Summons, Then the ſaid Court-Merchant ſhall have power to impoſe a Fine upon him or them making default, not exceeding Five pounds, or Commit their Body or Bodies unto Priſon without Bayl or Mainprize, until they ſhall conform to the Order of the Preſident and Conſuls.

And that it be further Enacted, That all Executions of the Decrees of that Court, which ſhall be for Sale and Diſpoſal of the Offendors goods ſhall be made forthwith by Outcry; the Proprietors firſt being called thereunto

unto, if he may be found, that he might either give satisfaction in Money, and receive the overplus, if any remain after satisfaction of the Debt awarded with such Costs as shall be taxed by the Court to be paid thereon. And all Goalers, Keepers of Prisons, Bayliffs, Serjeants at the Mace within the Lines of Communication as well as the Officers of that Court, are required to obey the Orders and Decrees of the President and Consuls, under like Penalties as if the same had proceeded from either Upper or Lower Benches or any other Court of Judicature within this Commonwealth.

And that it be further Enacted, That if any Merchant, Mariner, Shopkeeper, Artificer or other person using the trade of buying & selling shall after lawfull summon & citation as is before directed, convey himself or goods into any Countrey, Liberty or Priviledged place without the Verge of that Court, or be found to have Money, goods or chattels in any such place without their Jurisdiction; That then it shall & may be lawfull for the President & Consuls to cause their Decrees to be served by their own Marshall or Ministers, whether upon the person or goods of the offendors whersoever the same shall be found within this Commonwealth. And that all Mayors, Sheriffs, Bayliffs, Constables and others may be required to be assistant in the execution of the same.

And whereas no Merchant inhabiting within this Commonwealth can maintain foreign Commerce, without committing the Care, Custody and Management of his Goods, Merchandises, Bills of Exchange, or other effects unto some other person or persons that doth travel unto or reside in those foreign parts or Factories beyond the Sea, and that it doth so often times fall out, that such persons, whether Masters of Ships, Factors, Supracargors or other Instruments by such Merchants so appointed do contrary to the Commissions to them given, and the trust in them reposed, either detain the said goods, Merchandises or effects in their hands within those parts and places beyond the Sea, without rendring any account, or making of returns proportionable unto the Stock Committed to their Charge, and do nevertheless continue and abide in those places, out of a purpose to defraud their principal.

That it may be further Enacted, that in all such cases the President and Consuls of the Court-Merchant, calling to their assistance six other Merchants, being Commissioners of that Court, may forthwith upon due proof made before them of such Breach of trust by any Master of Ship, Factor Supracargor, or other Instruments, being a Native of this Commonwealth, and abiding in any of the *English* Factories beyond the Sea, transmit a Brief of the Complaint and Articles proved before them unto the Consul or other the chief Minister of Trade residing in those *English* Factories where the Offendor doth continue, and may also require the said Consul, or other Chief Ministers of Trade in such parts, to summon or warn such Offenders before him, for the making due satisfaction unto his principal, according to the Proofs taken before them in the Court; and so

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tranſmitted as aforeſaid. Or in default thereof, or of good ſecurity given by the Offendor for the ſame, to ſend over his body in ſafe Cuſtody by the firſt Shipping bound for *England*, that ſo either of them, as well Principall as Factor may receive in this Court, ſo as to juſtice ſhall apperrain.

And that it be further Enacted that no Writ of *Certiorari*, *Habeas Corpus*, or other Writ or Writs ſued forth in any Court of Record, ſhall be allowed of to remove any Action or Cauſe depending before the Court-Merchant, but the Preſident and Conſuls ſhall proceed to Iudgement, Decree, and Execution, as the Caſe ſhall require. Provided neverthleſſe that if any perſon ſhall find himſelf agrieved at the Decree of the ſaid Preſident and Conſuls, and the Iudgement given againſt him do exceed one hundred pounds, that then it ſhall and may be lawfull for the party ſo condemned, having firſt depoſited in the hands of the Court-Merchant, the money decreed to be by him paid, to exhibit his Bill for relief in the High Court of Chancery before the Lords Commiſſioners for the Great Seal, who may abate, reverſe, or alter the decree of the Preſident and Conſuls, as ſhall be agreeable to equity and good conſcience. Provided alway that if no ground or cauſe for ſuch Complaints ſhall be found, that then the Appealor ſhall pay unto the party agrieved treble Damages, any Law or uſage to the contrary notwithſtanding.

And that it be further Enacted, that A. B. be hereby nominated, appointed and conſtituted Regiſter of the Court-Merchant, and ſhall ſummarily make entry of all Plaints or Articles, Pleas or Anſwers, Iudgements Decrees, or Orders whatſoever, and ſhall ſafely lay up the ſame as Records, together with all ſuch Depoſitions or Examinations as ſhall be taken before the ſaid Court in any matter or cauſe reſpectively. And the Commiſſioners for the Court-Merchant are hereby enabled to appoint ſuch and ſo many other Miniſters and Officers as ſhall be by them adjudged neceſſary and convenient for carrying on Affairs in that Court, and them to remove again and diſplace at their own pleaſure.

And for prevention of all Oppreſſion that ſhall or may ariſe by exaction of extraordinary Fees by Officers in the ſaid Court, whereby the Plaintiffs or Defendants may be put to unreaſonable Charges. That it be laſtly Enacted and Ordained by Authority aforeſaid, that the Fees hereafter mentioned, ſhall be the allowances given and taken in any cauſe (brought into that Court) whatſoever, and not otherwiſe, *viz.*

Six pence to the Regiſter for the Regiſtry of every Proceſſe or Record.

Six pence to the Marſhall for each ſummons, Arreſts, or Citation.

And ſix ſhillings and eight pence to be further paid upon every Award or finall Decree unto ſuch Treaſurer as the Commiſſioners for the Court-Merchant, or the more part of them ſhall appoint, together with all Fines taxed and levied in that Court (except before excepted) and ſhall be diſpoſed as the ſaid more part of the Commiſſioners for the Court-Merchant ſhall think fit.

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